IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 168/2001

1. Mr. Guna Gaonkar,
   major, resident of House No.730,
   Caissua, Baddem,
   Bardez, Goa.

2. Mr. Bagirath P. Gaonkar,
   major, resident of Badem,
   Assagao, Goa. ..... Petitioners.

V/s.

1. The Administrative Tribunal
   of Goa, at Panjim,

2. Mamlatdar of Pernem,
   Administrator of
   `Bhumika Devasthan, Chopdem'
   Pernem, Goa.

3. Mr. Vishnu Gaonkar,
   major, resident of House No.203,
   Boron Vaddo,
   Camurlim, Bardez, Goa.

4. Mr. Vishwas S. Gaonkar,
   Resident of Chopdem,
   Pernem, Goa. ..... Respondents.

Shri S. D. Lotlikar, Senior Advocate with Shri S.Y. Thali, Advocate for the petitioners.

Shri S. R. Rivonkar, Government Advocate for the respondent No.2.

Shri S. M. Walawaikar, Advocate for the respondents No. 3 and 4.

CORAM : R.M.S. KHANDEPARKAR, J.

DATE : 3RD FEBRUARY, 2006.

ORAL JUDGMENT :

Heard. The petitioners challenge the order dated 21.05.2001 passed by the Administrative Tribunal, Goa in Devasthan Appeal No. 46/01 as being contrary to the provisions of law comprised under the Regulations governing Hindu Temples (Devasthans) of Goa, Daman & Diu in terms of Diploma Legislative No.615 dated 30.3.1933 and amended by Diploma Legislative No. 1898 dated 29-5-1959 (hereinafter called as "the said Devasthan Regulations").

2. The few facts relevant for the decision are that :

The Mahajans of Shree Bhimika Devasthan at Chopdem, Pernem Goa and the said Devasthan are governed by the provisions of the said Devasthan Regulations. On 31.12.1999, the Managing Committee of the said Devasthan was dissolved by the Government in exercise of powers under the said Devasthan Regulations and the Mamlatdar of Pernem was appointed as the Administrator in place of the Committee for the day today management of the said Devasthan. On 5.1.2000, the respondent No.2, the then Mamlatdar of Pernem who was Administrator of the said Devasthan issued an order appointing 5 persons to represent and/or assist him in the management of the Devasthan and to attend the day today rituals. On 7.1.2000, the Government issued an order appointing Bhagirath Gaonkar as the

Chairman of the Ad hoc Committee of the said Devasthan. The said order dated 7.1.2000 was challenged by the respondent No.3 by filing Writ Petition No. 5/2000. However, the said writ petition was withdrawn pursuant to the Government withdrawing the order dated 7.1.2000 and further directing the Mamlatdar of Pernem to manage the day today affairs of the Devasthan till the new Managing Committee was elected. Simultaneously, the respondent No.2 was also directed to hold elections to the Managing Committee of the Devasthan within six weeks from the date of the said order. Consequently, the Mamlatdar published the list of capable members in accordance with the provisions of the Devasthan Regulations and by notice published in the daily “Gomantak” invited objections to the said list. The said list was published on 22.2.2000. The respondent No.3 filed certain objections to the said list on 24.2.2000. The respondent No.2 after hearing the parties, by its order dated 8.3.2000 rejected the objections filed by the respondent No.3. The elections thereupon were scheduled to take place on 11.3.2000. The respondents No.3 and 4 meanwhile filed an appeal before the Administrative Tribunal being Devasthan Appeal No.29/2000 against the order of the Mamlatdar passed on 8.3.2000 since in terms of the statement made in Writ Petition No.5/2000, the elections were required to be held within six weeks from 17.1.2000, the day on which the writ petition was withdrawn and that period had already expired. The Government filed Misc. Civil Application No.346/2000 seeking

extension of time, more particularly in the circumstances where the Administrative Tribunal had stayed the election proceedings. The said Misc. Civil Application was disposed of by this Court directing the Authorities to hold elections after disposal of the Devasthan Appeal No.29/2000, which was then pending before the Administrative Tribunal. On 11.10.2000, the Administrative Tribunal dismissed the Devasthan Appeal as being not maintainable against the order dated 8.3.2000 passed by the Mamlatdar in his capacity as Administrator in place of the Managing Committee of the Devasthan. The said order of the Tribunal was sought to be challenged by the respondent No.3 by filing Writ Petition No.364/2000 which came to be dismissed by the Order dated 9.1.2001. The respondent No.3, thereafter, presented an appeal before the Mamlatdar, respondent No.2 on 31.1.01 against its order dated 8.3.2000 to be considered by the General Body of the Devasthan in terms of the provisions comprised under the said Devasthan Regulations. The said appeal was accompanied by an application praying for condonation of delay in filing the appeal by the respondent No.3. The respondent No.2 pursuant to the said appeal and the application, issued two notices by which General Body of the Devasthan was sought to be summoned for meeting on 27.3.2001 to discuss and deliberate upon the said appeal and the application filed by respondent No.3. Second notice was also issued to the Mahajans calling upon them to attend the said meeting and to elect a new Managing Committee for the trienium of 2000 to

2003 at the meeting to be held on 28.3.01. Both these notices were issued on 13.3.2001. The petitioners preferred an appeal against the said notice dated 13.3.01 whereby the respondent No.2 had sought to convene a general body meeting to discuss and deliberate upon the appeal and the application filed by respondents No.3 and 4 on the ground that the notice issued in the appeal filed by the respondent was without jurisdiction. The said appeal was registered as Devasthan Appeal No.46/01 and on 23.3.01, the Tribunal passed an interim order staying the proceedings which were scheduled to take place on 27.3.01 to discuss and deliberate upon the appeal and the application filed by respondents No.3 and 4. It appears that simultaneously, respondent No.3 also filed a suit against the said second notice issued by respondent No.2 for holding elections and therein an ex parte order came to be passed on 23.3.01, restraining the respondent No.2 to hold elections and the said order was challenged by the petitioners by filing Writ Petition No. 93/2001 and this Court under order dated 27.3.01 stayed the order of the trial Court further directing the respondent No.2 to proceed with the elections, by re-notifying the schedule for the elections in terms of the Devasthan Regulations and, accordingly, the elections for the Manging Committee of the said Devasthan were held on 7.4.01. On 21.5.01, the Administrative Tribunal dismissed the Devasthan Appeal No.46/01 and directed the respondent No.2 to call General Body Meeting in terms of Article 250 of the Devasthan Regulation

within 15 days to discuss and deliberate upon the appeal and the application filed by respondents No.3 and 4. Aggrieved by the said order, the petitioners have filed the present petition.

3. Drawing attention to Articles 26, 250 and 255 of the said Devasthan Regulation, as well as Section 29(2) of the Limitation Act, 1963, the learned Senior Counsel for the petitioners submitted that in terms of the said provisions of law, the appeal against the order of the Mamlatdar or the Administrator appointed in place of the Administrative Committee, in relation to the objections raised in respect of inclusion or exclusion of the names of the capable members for being entitled to vote and contest the elections for the Managing Committee, has to be filed within 10 days and in case the aggrieved party fails to present such appeal within the period of 10 days, the General Body of the Devasthan does not enjoy jurisdiction to entertain or deal with such an appeal. In view of the specific provisions comprised under Section 29(2) and bearing in mind the provisions of the said Devasthan Regulations being a special statute dealing with the affairs relating to Devasthan in the State of Goa and the provisions of law comprised under Article 255 of the said Devasthan Regulations being specifically providing clear bar for entertaining an appeal preferred beyond the period of limitation prescribed under the said Devasthan Regulations, the provisions of the said regulations would prevail over the provisions of Limitation

Act and the provisions of Sections 4 to 24 thereof would not apply to such proceedings. Attention was also drawn to the decisions in cases of **Sakuru V. Tanaji,** reported in AIR 1985 SC 1279; **Mohd. Ashfaq v. State Transport Appellate Tribunal U.P. and ors.,** reported in AIR 1976 SC 2161 and **Lachhman Das Arora v. Ganeshi Lal and ors., r**eported in A.I.R. 1999 SC 3101.

4. On the other hand, the learned Advocate appearing for the respondents No.3 and 4 submitted that there was no delay as such caused in filing the appeal in the facts and circumstances of the case. According to the learned Advocate, respondents No.3 and 4 were pursuing their remedy against the order of the Administrator since the time they were informed about the dismissal of their objections and it was only after the decision of this Court in Writ Petition No.364/2000 dated 18.1.01 that the petitioners having been made aware of the legal position with necessary clarity, presented the appeal to the Mamlatdar to be placed before the General Body and simultaneously also filed application for condonation of delay. According to the learned Counsel for the the respondents, therefore, the delay was not deliberate in the peculiar facts of the case and considering the provisions of Section 29(2) of the Limitation Act which provides that in the absence of express exclusion of the provisions of Sections 4 to 24, those provisions will also apply to the proceedings

under any special or local law. He further submitted that such exclusion cannot be implied, but there should be express provision in that regard and sought to rely upon the decision in the case **Mangu Ram v. Municipal Corporation of Delhi,** reported in (1976) 1 SCC 392 in support of his contention. According to the learned Advocate, the provisions of Sections 4 to 24 are to be read in Article 255 of the said Devasthan Regulations.

5. Article 26 of the Devasthan Regulations provides that :

> " The interested persons who may intend to be enrolled in the catalogue or in the list of capable members, or to object to the last revision or the list prepared, shall present, till 31st January, against receipt, to the Managing Committee, their petitions or objections in an ordinary paper, with the supporting documents, which petitions or objections shall be decided by the committee till 10th February."

This provision apparently discloses that the application for inclusion or objection to the list of members prepared by the Managing Committee should be submitted on or before 31st January of the year in which such list is displayed and such application or objection should be decided by the Committee on or before 10th February of the same year.

6. Para 1 to Article 26 of Devasthan Regulations provides

that :

> “The clerk of the Committee shall facilitate at the records room the inspection of the catalogue and other concerned information, demanded by the attorney of the Committee members (mazanes) and associates, when they are applicants, from 20th to 31st January, and he shall issue independently of order, the certificates that may be asked of him for the purposes of this article. “

This provision of law obviously discloses that the concerned parties will have right to inspect the records to verify the decision on the application and/or objection filed by the concerned person and in case, the concerned person requires any certificate, the same should be issued by the Clerk of the Committee without any delay.

7. Second para to the said Article 26 provides that :

> “An appeal may be lodged against the decision of the Committee, granting or rejecting the request, in the first case, by the attorney and in the second, by the interested person, to the body of members (mazanias) or against the letter's deliberation, taken in its session of the month of March, to the Administrative, Fiscal and Audit Tribunal, within the time limits prescribed under the respective Regulation.”

In terms of this provision, any appeal lodged against the decision of the Committee, would lie to the General Body of the concerned

Devasthan and against the decision of the General Body, it would lie to the Administrative Tribunal.

8. Article 250 which is found in the Chapter relating to the appeals in the said Devasthan Regulations provides that :

> "The appeal being to the body of members (mezania) or association, the filing shall take place within 10 days from the Notification of the respective deliberation, it being the petition, duly supported, handed over to the Administrator who, by order, shall summon the body of members (mazania) to meet in an extraordinary session, if required."

Evidently, this provision discloses that an appeal has to be filed within 10 days from the date the decision is notified to the concerned party or made known to the public by issuance of notification in that regard and such an appeal should be handed over to the Administrator i.e. the Mamlatdar who shall summon the General Body to discuss and deliberate upon such appeal.

9. The provisions of law comprised under Article 255 of the said Devasthan Regulations which are very relevant for the decision in the matter read thus :

> "It shall not be taken cognizance of any appeal filed or followed beyond the time limit, and the

appealed decision shall be considered definitive."

This provision of law, therefore, categorically provides that on expiry of the period prescribed for filing of the appeal under the provisions of the said Devasthan Regulations, the authority otherwise competent to take cognizance of such appeal, shall not take cognizance of such appeal filed beyond period of limitation. In other words, in case of failure to file appeal within the prescribed period, the decision which was sought to be appealed beyond the period of limitation shall be deemed to have attained finality and the appellate authority will have no jurisdiction to entertain any such appeal filed beyond the prescribed period.

10. It would be worthwhile to take note of Section 29(2) of the Limitation Act at this stage itself and it provides that :

> "Where any special or local law prescribed for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule, the provisions of S.3 shall apply as if such periods were the periods prescribed by the Schedule and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in Sections 4 to 24 (inclusive) shall apply only in so far as, and to the extent to which, they are not expressly excluded by such special or local law."

The provision under Section 29(2), therefore, specifically provides that in case the provisions contained in Sections 4 to 24 are expressly excluded by any special or local law, then those provisions would not apply to the proceedings under the said special or local law.

11. As already seen above, Article 255 specifically and expressly provides that the appellate Authority shall not take any cognizance of any appeal beyond the period of limitation prescribed for filing such appeal. It further provides that in case of failure to file such appeal within the period of limitation, the order which was not appealed from, would attain the finality. In other words, the provisions under Article 255 expressly provides that there is no scope for condonation of delay or extension of period of limitation under any circumstances, coupled with the specific bar being prescribed for appellate authority to take cognizance of any appeal filed beyond the period of limitation. Being so, there is hardly any scope to contend that such a provision cannot be construed as provision expressly excluding the applicability of the provisions of law comprised under Section 5 of the Limitation Act.

12. It is also to be noted that the provisions of law comprised under the said Devasthan Regulations do not entitle the aggrieved party to file or present an appeal directly to the General Body of the Devasthan. It provides that the appeal has to be presented to the

Administrator i.e. the Mamlatdar and on presentation of such appeal, the Mamlatdar is empowered to summon the meeting of the General Body. In other words, neither the General Body nor the Managing Committee of the Devasthan can independently entertain any such appeal nor can summon the meeting to deliberate and discuss upon such appeal. The jurisdiction or authority to deal with such appeal can be assumed by the General Body of the Devasthan only upon the meeting thereof being summoned by the Mamlatdar consequent to presentation of appeal to the Mamlatdar. In other words, the pre-requisite for assuming the jurisdiction by a General Body to deal with such appeal is summoning of the meeting of the general body by the Mamlatdar for consideration of such appeal and pre-requisite for Mamlatdar to summon such meeting is presentation of the appeal to him by the aggrieved party. It is well settled that in the absence of existence of jurisdictional facts, the concerned authority cannot itself assume the jurisdiction to deal with appeal which is required to be dealt with only on existence of such jurisdictional facts. In case of a general body to assume the jurisdiction to deal with such appeal there has to be appeal presented to the Mamlatdar who should summon the meeting of the general body, and not otherwise.

13. It is also to be noted that while exercising the power for summoning the meeting of general body, the Administrator does not perform any judicial or quasi-judicial function. It is purely an

administrative function of the Administrator. This has relevancy also while considering the applicability or non-applicability of the provisions of law comprised under Sections 4 to 24 of the Limitation Act, 1963. Section 5 of the Limitation Act which deals with the power to condone the delay specifically provides that :

> " Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908, may be admitted after the prescribed period, if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period."

The explanation to Section 5 provides that the fact that the appellant or the applicant was misled by any order, practice or judgment of the High Court in ascertaining or computing the prescribed period may be sufficient cause within the meaning of the said section. Obviously, the power of condonation available under Section 5 is given to the Court and not any other body. Indeed, the law on this point is well settled and does not require further deliberation in that regard.

14. At this stage, it would be worthwhile to take note of the provisions of Section 18 of the Land Acquisition Act, 1894, which pertains to right of the interested parties to seek reference to the reference Court in case of a party being aggrieved by the award

passed by the Land Acquisition Officer in relation to the land acquired in which he has interest. While dealing with the said provision, this Court and the Apex Court had occasions to consider the scope of power of the Authority entertaining the application for reference as well as whether the delay in filing such application could be condoned. The Full Bench of this Court, in **Suresh Marutrao Jadhav v. State of Maharashtra and anr. .,** reported in 2001 103(4) Bom. L.R. 897, relying upon the Judgment of the Apex Court in S**tate of Punjab and another vs. Satinder Bir Sigh** reported in (1995) 3 SCC 330 held that the Collector under Section 18 of the Land Acquisition Act merely performs a statutory function and does not act as a Court and the dichotomy of the Collector and the Court cannot be lost sight of.

15. In **Sakuru's case (supra),** it was rued by the Apex Court that the provisions of Limitation Act, 1963 apply only to the proceedings in the Court and not to the appeal or applications before the bodies other than the Court such as quasi-judicial Tribunals or executive authorities, notwithstanding the fact that such bodies or authorities may be vested with certain specified powers conferred on Courts under the Code of Civil or Criminal Procedure.

16. In **Mohd. Asfaq's case (supra)** while dealing with the

scheme of Chapter IVA of the Motor Vehicles Act, 1939 and considering the provisions of Section 29(2) of the Limitation Act as well as Section 58(2) of the Motor Vehicles Act, held that Section 29 (2) of the Limitation Act 1963 makes Section 5 applicable in case of an application for renewal unless its applicability can be said to be expressly excluded by any provisions of the Act and that sub-Section (3) of Section 58 in so many terms says that the Regional Authority may condone the delay in making an application for renewal and entertain it on merits provided the delay is of not more than 15 days. Considering the same, it was held that it clearly means that if the application for renewal is filed beyond time by more than 15 days, the Regional Transport Authority shall not be entitled to entertain it, or in other words, it shall have no power to condone the delay. Referring to Section 58, it was held that there was express provision in sub-section (3) that delay in making an application for renewal shall be condonable only if it is of not more than 15 days and that expressly excludes the applicability of Section 5 in cases where an application for renewal is delayed by more than 15 days.

17. In fact, the case in hand is squarely covered by the decision of the Apex Court in **Mohd. Asfaq's case (supra)** wherein Section 58 (3) of the Motor Vehicles Act, 1939 specifically provided that the Authority can condone the delay provided application was filed within 15 days after expiry of the period of limitation prescribed for renewal

of the licence. It means that there was power given to the Authority to condone the delay limited to the period of 15 days. In other words, even in cases where the Authority is statutorily empowered to condone the delay, once such power is circumscribed by referring to certain number of day, the Apex Court has held that applicability of provisions of Section 5 stands expressly excluded after the expiry of such period. In the case in hand, the provision specifically states that the appeal cannot be entertained beyond the period of limitation prescribed and further provides that the Authority should not take cognizance of such appeal filed beyond the period of limitation. This provision, therefore, in my considered opinion, expressly excludes the applicability of provisions of law comprised under Section 55 of the Limitation Act.

18. It is also to be noted that the appeal in the case in hand, was required to be presented to the Administrator and the provisions of law comprised under Article 26, read with Article 250 of the Devasthan Regulations disclose that the General Body has to deliberate upon the appeal filed by the party. It does not provide for the General Body to entertain and deliberate upon the said appeal independently of reference of such application by the Administrator consequent to the summoning of the General Body Meeting by the Administrator. The provision of Article 250 speaks of only reference of an appeal to the General Body by the Administrator and no other

proceedings. The Administrator performs his only administrative functions which are of ministerial nature and not of judicial or quasi-judicial nature. Being so, neither the Administrator would have jurisdiction to entertain the appeal nor even condone the delay, nor the General Body could exercise any such power. This conclusion is inevitable also bearing in mind decision in relation to the role of the Authority referred to above under the provisions of the Land Acquisition Act. Undoubtedly, the provisions of the Land Acquisition Act are different from those under the Devasthan Regulations. But the decision assumes importance while considering the scope of power of the Administrator under Article 250 and the nature of such power as well as the manner in which the General Body of the Devasthan gets jurisdiction to deal with and deliberate upon the the appeal filed by an aggrieved party.

19. Before parting with the matter, it is necessary to refer to the decision of the Apex Court in **Mangu Ram's case (supra),** sought to be relied upon on behalf of the respondents No.3 and 4. The Apex Court, therein, while dealing with the provisions comprised under Section 417(4) of the Code of Criminal Procedure, 1898 which corresponds to Section 378(2) had held that the language of Section 417(4) is mandatory and compulsive and it provides in no uncertain terms that no application for grant of special leave to appeal from an order of acquittal shall be entertained by the Court after expiry of

sixty days from the date of order of acquittal. While considering whether in such circumstances the provisions of Section 5 of the Limitation Act would apply or not, it was held that :

> "The conclusion is, therefore, irresistible that in a case where an application for special leave to appeal from an order of acquittal is filed after the coming into force of the Limitation Act, 1963, Section 5 would be available to the applicant and if he can show that he had sufficient cause for not preferring the application within the time limit of sixty days prescribed in sub-section (4) of Section 417, the application would not be barred and despite the expiration of the time limit of six days, the High Court would have the power to entertain it."

It is to be noted that those observations were made in relation to the appeal against acquittal filed in terms of the provisions of the Code of Criminal Procedure. It is also to be noted that Article 114 of the Limitation Act under second division of the Schedule of the said Act prescribes certain period of limitation in relation to the appeal under the Code of Criminal Procedure. In other words, the Limitation Act specifically applies to the provisions under the Code of Criminal Procedure. In that regard, the provisions under Section 29(2) of the Limitation Act will have to be understood bearing in mind the specific applicability of the Limitation Act to the proceedings under the provisions of the Code of Criminal Procedure. Thus, it is to be noted

that the observations of the Apex Court were while dealing with the issue as to whether the time limit of sixty days prescribed under sub-section (4) of Section 417 of the Code of Criminal Procedure for making application for special leave under sub-section (3) of that Section could be extended by invoking power under Section 5 of the Limitation Act, 1908 ? In that regard, the Apex Court, in its earlier decision in **Kaushalya Rani v. Gopal Singh,** reported in 1964 SC 260 had held that sub-section 4 of Section 417 lays down a special period for application by the complainant for special leave to appeal against the order of acquittal and in that sense rule of 60 days bar was a special law i.e. the rule of limitation which specifically provided for in the Code itself which does not ordinarily provide for a period of limitation for appeals or applications and, therefore, it was pointed out that since special rule of limitation laid down in sub-section (4) of Section 417 of the Code is a special law of limitation governing appeals by private prosecutors, there is no difficulty in coming to the conclusion that Section 5 of the Limitation Act was not applicable in view of Section 29(2) of the limitation Act. While distinguishing the said case, it was held that :

> ".. there can be no doubt that if the present case were governed by the Indian Limitation Act, 1908, this decision would wholly apply and the Municipal Corporation of Delhi would not be entitled to invoke the aid of Section 5 of that Act for the purpose of extending the period of

> limitation of sixty days prescribed in sub-section (4) of Section 417 for an application by a complainant for special leave to appeal against an order of acquittal. But the Indian Limitation Act, 1908 has clearly no application in the present case, since that Act is repealed by the Limitation Act, 1963 which came into force with effect from January 1, 1964 and the present case must, therefore, be decided by reference to the provisions of the Limitation Act,1963.

Further holding that there is an important departure made by the Limitation Act, 1963 in so far as the provision contained in Section 29, sub-section (2) is concerned, it was observed that :

> "Whereas, under the Indian Limitation Act, 1908, Section 29, sub-section (2), clause (b) provided that for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions of the Indian Limitation Act, 1908, other than those contained in Sections 4, 9 to 18 and 22, shall not apply and, therefore, the applicability of Section 5 was in clear and specific terms excluded, Section 29, sub-section (2) of the Limitation Act, 1963 enacts in so many terms that for the purpose of determining the period of limitation prescribed for any suit, appeal or application by any special or local law the provisions contained in Sections 4 to 24, which would include Section 5, shall apply in so far as

> and to the extent to which they are not expressly excluded by such special or local law."

Considering the said phraseology in the new Section 29(2) of the Limitation Act, 1963 and the provisions of Section 417(4) of the Code of Criminal Procedure, the above quoted observations were made by the Apex Court. The decision no where holds that the express exclusion would mean verbatim reproduction Section 29(2) of the Limitation Act, 1963. Whether applicability of Sections 4 to 24 of the Limitation Act is expressly excluded or not, is to be understood bearing in mind the provisions of the special statute or the local law. It is also to be noted that the ratio of the decision cannot be understood by picking up, out of context, one or two sentences from the Judgment. In order to understand the ratio of a decision, it is necessary to ascertain the facts of the case, the points which arise for consideration and the decision on those points, as has been held by the Apex Court in the matter of **Union of India and ors. v. Dhanwanti Devi and ors,** reported in 1996(6) SCC 44. Being so, observations by the Apex Court in relation to the scope of Section 417(4) of the Code of Criminal Procedure will be of no help to understand the scope of the proceedings comprised under Article 255 of the Devasthan Regulations. Therefore, the decision does not support the contention sought to be raised on behalf of the respondents.

20. Considering various provisions of law, therefore, the impugned order which rules about the applicability of Section 5 of the Limitation Act to the proceedings before the General Body of Devasthan while exercising the power under Article 26 read with 250 of the said Devasthan Regulations cannot be sustained and is liable to be set aside.

21. In the result, therefore, the petition succeeds. The impugned order is, thereby, quashed and set aside. It is held that the provisions of Sections 4 to 24 are not applicable to the proceedings under Articles 26, read with 250 of the said Devasthan Regulations. Consequently, the appeal which was sought to be filed by respondents No.3 and 4 before the respondent No.2 stands rejected, being not maintainable. The Rule is made absolute in the above terms with no order as to costs.

R.M.S. KHANDEPARKAR, J.

ssm